

REMARKS

Claims 6 and 21-35 were pending in this application prior to this amendment. Claims 21-35 were withdrawn by the Examiner in the Office Action dated March 29, 2006, as allegedly being directed to an invention distinct from the invention of claim 6, which the Examiner asserts to have been constructively elected.

By this amendment, claim 6 is canceled. Claims 23, 24, 29, and 30 are amended to more clearly specify that the two-way actuator or composite material may be applied onto any location on or within a subject's body, as supported by the specification at ¶¶ [0021] and [0042]-[0044].

New claims 36-50, which are added by this amendment, are supported by original claims 1-12 and ¶¶ [0021] and [0042]-[0044] in the specification, which describe use of the invention in medical device systems actuated by thermal cycling in the body and actuation cycles in which body temperature is the high or low cycling temperature. Upon entry of these amendments, claims 21-50 will be pending in this application.

Specification

The Examiner objected to the specification for use of the terms "first component" and "second component" in a manner inconsistent with the claims. The specification has been amended so that "first component" and "second component" refer to a shape memory alloy and an elastic metal, respectively, corresponding to the terminology used in the claims.

Restriction Requirement

In the restriction of this application, the Examiner constructively elected claim 6 and withdrew claims 21-35 (presented in the previous response) as being drawn to a "method of using a two-way actuator," which Examiner asserts to be distinct from the "two-way actuator" and the "method of providing two-way actuation" as originally claimed. Applicant respectfully traverses the restriction of this application.

Claims 21, 27, and 33 are amended to recite a "method of providing two-way actuation" as originally claimed in this application. Applicant submits that there would be no undue burden

in examining all the claims in this application, including method claims 21-35, because the Examiner has already examined methods of providing two-way actuation as originally claimed in claims 19 and 20. Therefore, Applicant respectfully requests reconsideration of the restriction requirement.

Rejection of Claim 6

The rejection of claim 6 under §112 and §102(b) are rendered moot by the cancellation of claim 6.

New Claims 36-50 Recite Temperature Limitations That Are Suitable For Use in the Body

New claims 36-50 recite temperature limitations that allow reversible two-way actuation at temperatures that are suitable for use on body tissue. This feature, which is useful in medical devices that are applied to or implanted in the body, is absent from the disclosure of *Zadno-Azizi*. For at least this reason, Applicant submits that claims 36-50 are patentable over *Zadno-Azizi* and respectfully requests allowance of the claims.

CONCLUSION

Applicant respectfully submits that the present application is now in condition for allowance. The Examiner is invited to contact Applicant's representative to discuss any issue that would expedite allowance of this application. The Commissioner is authorized to charge all required fees, fees under § 1.17, or all required extension of time fees, or to credit any overpayment to Deposit Account No. 11-0600 (Kenyon & Kenyon LLP).

Respectfully submitted,

Date: June 22, 2006

Steven S. Yu
Steven S. Yu
Reg. No. 58,776

KENYON & KENYON LLP
1500 K Street, N.W.
Washington, DC 20005
Tel: (202) 420-4200
Fax: (202) 420-4201